Native Village of Buckland
Buckland IRA Council
P.O. Box 67
Buckland, Alaska 99727
Ph. (907) 494-2171
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June 3, 2002

U.S. Dept. of the Interior
Alaska Area Office
P.O. Box 25520
Juneau, Alaska 99802-5520
Attn: Niles Cesar

RECEIVED
JUN 10 2002
BUREAU OF INDIAN AFFAIRS
OFFICE OF THE REGIONAL DIRECTOR

Dear Mr. Cesar,

Enclosed with this cover letter is the amended Constitution and By-laws for the Native Village of Buckland for your review. If there should be any changes or amendments, please call it to our attention, we would greatly appreciate it. I have sent the original to the Secretary of the Interior, Gale Norton. Thank you so much for your time and assistance.

If you have any questions or comments, please call our office.

Sincerely,

Laura Washington
IRA Administrator

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TRIBAL GOVERNMENT SERVICES
JUNEAU REGIONAL OFFICE

CONSTITUTION AND BY-LAWS OF THE NATIVE VILLAGE OF BUCKLAND, ALASKA

PREAMBLE

We the people of the Native Village of Buckland living together in the Village of Buckland, Alaska in order to sustain and perfect our historic form of tribal government, do proclaim and establish this constitution for the Tribe of the Native Village of Buckland. The Tribal government shall be dedicated to the conservation and careful development of our tribal lands and other resources, to promote the economic well being of all tribal members to provide educational opportunities for our posterity, and ourselves and to promote the social and cultural well being of our people. This constitution supersedes the Constitution and By-laws enacted December 30, 1950.

Article I – Name

This organization shall be called the "Native Village of Buckland."

Article II – Membership

Section 1. Membership requirements.

The membership of the Native Village of Buckland Tribe shall consist of: (a) All persons who are qualified for and were accepted into membership in the Native Village of Buckland under the membership requirements as of the date of enactments of this constitution. (b) All persons of ¼ degree or more native blood of a federally recognized tribe, provided, that the person is at least ¼ degree native blood.

Section 2. First Members.

All persons whose names are on the list of native residents, made according to the Instructions of the Secretary of the Interior for organization in Alaska, shall be members of the village.

Section 3. Children of Members.

All children of any members shall be members of the village.

Section 4. Loss of membership.

Any member may willingly give up his/her membership, or his/her membership may be taken away for good reason by the village, or if he moves away from the village, intending not to return, shall lose their membership.

Section 5. New membership.

Any person who has lost his membership and any other native person may be made a member if he sets up a home in the village.

Section 6. Membership rules.

The village may make rules to govern membership, either for the purpose of carrying out this article or covering membership matters not taken care of in this article.

Article III—Rights of Members

Section 1. Right to vote.

All members of the village 18 years of age or over shall have the right to vote in village meetings and elections.

Section 2. Right to speak and meet freely.

Members of the village shall have the right to speak and meet together freely in a peaceable way.

Section 3. Right to share in benefits.

Members of the village shall have equal chance to share in the benefits of the village.

Article IV – Civil Rights

Section 1. Rights of Tribal Members.

The Native Tribe of the Native Village of Buckland in exercising its powers of self-government, shall make no law inconsistent with the Indian Civil Rights Act of 1968 (25 U.S.C. $$1301-1303: 82 Stat. 77), which requires that the Tribe not:

a) Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances.
b) Violate the right of the people to be secure in their person, houses, papers and effects against unreasonable searches and neither seizure, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.
c) Subject any person for the same offense to be twice put in jeopardy.
d) Compel any person in any criminal case to be a witness against himself.
e) Take any private property for public use without just compensation.
f) Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense.
g) Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one (1) year or a fine of $5000.00 or both.
h) Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without the process of law.
i) Pass any bill of attainder or ex post facto law.
j) Deny to any person accused of any offense punishable by imprisonment, the right, upon request, to a trial by jury of not less than six person, or
k) Prohibit any person from testing the legality of his detention, by order of the Native Village Tribal Court (if established) by petitioning for a writ of habeas corpus in a court of the United States.

Section 2. In the event that the Indian Civil Rights Act of 1968 is amended in the future, the Tribal Council may, through legislative actions, provide that said amendment should be deemed a part of this Constitution without the need to adopt formal amendments to this Constitution.

Article V -- Governing Body

Section 1. Council.

The governing power of the tribe shall be vested in the Tribal Council. The Tribal Council, acting as one governmental entity, shall be composed of the following positions: (a) President, (b) Vice-President, (c) Council Secretary, (d) Council Treasurer and Three council members. The council shall serve a three year staggered term or until their resignation or removal from office in a manner provided herein.

Section 2. Tribal Council Members.

The seven members of the tribal council are elected annually for staggered three-year terms.

Section 3. Choice of officers.

The village shall at the same time decide how members and officers of the governing body shall be chosen and how long they shall serve.

Section 4. Resignation.

Members of the tribal council shall remain in office until their successors are duly elected and installed. Any member may resign from office by notifying the IRA Council in writing. Such retirement shall take effect upon receipt by the President or Council Secretary.

Section 5. Vacancies.

Vacancies shall be filled by the tribal council at the first regularly scheduled meeting of the tribal council, which occurs within thirty consecutive calendar days of the date of the vacancy.

Section 6. Procedure for vacancies.

The President shall accept nominations from the tribal members to fill such vacancy. All persons nominated must be eligible to vote in the next tribal election. A majority of votes cast shall elect. All votes shall be conducted by secret ballot. The tribal member so elected shall fill the unexpired term of the tribal council member.

Section 7. Meetings of membership and governing body.

The village shall decide when and how often there should be meetings of the whole village membership as well as of the governing body; also it shall decide what notice shall be given for the calling of meetings and how many members must be present at such meetings in order to do business; and it may make any other rules necessary for the holding of meetings. A general meeting of the whole membership shall be held at least once a year.

Section 8. Record and Report of Village Decisions.

A record shall be made and kept of all the rules made under sections 1,2, and 3 of this Article, which record shall be call the Record of Organization of the Native Village of Buckland, Alaska. Copies of this record shall be given to the representative of the Bureau of Indian Affairs serving the village. There shall be put in the record the names of all persons chosen to be officers of the village.

Section 9. Powers of Tribal Council.

The powers of the Tribal Council shall include all executive and legislative powers reasonable and necessary to achieve the tribal goals recited in the Preamble thereof, and shall further specifically include, but not limited to, the following powers:

a) To negotiate with and to approve or disapprove contracts or agreements with tribal, foreign, federal, state or local governments, with private persons or with corporate bodies.
b) To approve or disapprove other tribal business entities, any sale, disposition of business entities in the best interest of the tribal membership.
c) To establish procedures for the conduct of all tribal government and business operations except where elsewhere precluded in this constitution.
d) To direct the preparation of budgets, budget estimates and financial reports for submission to or at the direction of the tribal council.
e) To establish and enforce all ordinances governing tribal members, including, but not limited to, ordinances regarding tribal elections, ordinances establishing the civil and criminal jurisdiction of the Native Village tribe's Tribal Court System, ordinances providing for the maintenance of law, order and the administration of justice within the Native Village tribe.
f) To regulate wholesale, retain, commercial or industrial activities on tribal lands.
g) To create, or to provide by ordinance for the creation of organizations, including public and private corporations, for any lawful purpose, which may be nonprofit or profit making, and to regulate the activities of such organizations by ordinance.
h) To promote and protect the health, peace, morals, education, and general welfare of the Tribe members.
i) To borrow money from any source whatsoever without limit as to amount, and on such terms and conditions and for such consideration and periods of time as the Tribal Council shall determine, to use all funds thus obtained to promote the welfare and betterment of the Tribe and to finance tribal enterprises.
j) To conduct all business transaction through the ordinance and resolution process.

Article VI – Recall of Tribal Council members

Section 1. Recall and Removal

A member of the tribal council shall be recalled in the following manner:

a.) Petition Procedure: A petition stating the grounds for recall shall be submitted to the secretary of the tribe. The statement of reasons supporting the recall shall appear at the top of each page of the recall petition. Specific reason for recall shall be:

1) Felony in the USA
2) Documented misappropriation of funds; or
3) Absent from three (3) regular scheduled Council meetings in a 3 month period (excluding verifiable sickness, death in immediate family or out of town tribal or other business that will benefit the Native Village of Buckland.

b.) Time Requirements: Within seven consecutive working days, the secretary shall determine whether or not the requisite number of signatures appears on the recall petition. In the event that the secretary is being recall, then the President shall validate the signatures.

c.) Number of required signatures: In order to successfully recall a member of the tribal council, the secretary must find and certify that fifty (50) eligible voters have signed the petition.

d.) Eligibility: Any member who meets the voting requirements set forth in Article VI, Section 1 of the Constitution shall be eligible to sign a recall petition.

e.) Signature requirements: Each signature must be accompanied by the printed name, box number of the signing tribal member.

f.) Unsuccessful Recall: Should the secretary find that an insufficient number of signatures appear on the recall petition, the secretary shall return the petition with a statement indicating why each unaccepted signature was rejected. The sponsors of the recall petition shall have ten (10) consecutive working days from the date they receive the returned petition to cure the defects. If they fail to cure the signature defects the petition is invalid and no new petition may be circulated against the same office holder for one hundred eighty days (180) consecutive calendar days.

g.) Recall Election: Within thirty (30) consecutive calendar days of the validation of the recall petition a recall election shall be held. Thirty (30) percent of the eligible voting membership shall vote to constitute a valid recall election.

h.) Recall Election Procedure: At least ten (10) consecutive working days prior to the recall election the Secretary shall cause a notice to be sent to the membership of the recall election. The notice shall state the date of the recall election and the hours of the polling place. In addition, the Secretary shall publish the same notice in three general local public places.

i.) Immunity from Recall: In the event that a recall vote is unsuccessful, the subject of the unsuccessful recall election shall not be subject to another recall election which is based upon the same or similar grounds for at least one year from the date of the recall election.

j.) Successful Recall: In the event that sufficient votes are cast to require recall, the President shall declare the position vacant and shall fill the position pursuant to Article III Section 5 of this Constitution. The person recalled may not be named to fill the vacant position.

Article VII – Powers of the Village

Section 1. Powers held.

The village shall have the following powers:

- To do all things for the common good, which it has done or has, had the right to do in the past and which are not against Federal Law and such State law as may apply.
- To deal with the Federal and State Governments on matters which interest the village, to stop any giving or taking away of Village Lands or other property without its consent, and to get legal aid, as set forth in the act of June 18, 1934.
- To control the use of members or nonmembers of any reserve set aside by the Federal Government for the village and to keep order in the reserve.
- To guard and foster native life, arts and possessions and native customs not against law.

Section 2. Grant of more powers.

The village may have and use such other powers as may be given to it by the Federal and State Government.

Section 3. Use of powers.

The governing body shall put into use such of the powers of the village as the village may give to it at general meetings of the membership and shall make reports of its actions to the membership at general meetings.

Section 4. Rule-making power.

The village council may make rules, which are not against the law to carry out the words of this Constitution.

Section 5. Referendum.

Upon receipt by the tribal secretary of a petition signed by at least fifty (50) eligible voters, or upon the request of a majority of the members of the Tribal Council present at a valid meeting, any enacted or proposed ordinance or resolution of the tribal council shall be submitted to popular referendum within ninety consecutive calendar days. The vote of two-thirds (2/3) of the qualified voters in such a referendum shall be conclusive and binding on the Tribal Council. Once a referendum has been called and the results announced, no new referendum may be called on the same subject for one year from the date of the referendum.

Section 6. President.

a) Duty to Preside: The President shall preside over all meetings of the Tribal Council and the general tribal membership meetings.
b) Duty to Report: The President shall report annually to the tribal membership as to the state of the tribe.
c) Duty to Appoint: The President shall appoint all necessary employees subject to ratification of the council and as positions authorized by the council.
d) Duty to Supervise: The President shall be responsible for the general supervision of all department head tribal employees.
e) Duty to Implement Council Policy: The President shall implement and carry out all directives and policies of the Tribal Council.
f) Duty to Inform the Council: The President shall ensure that the Tribal Council is fully informed as to all aspects to tribal business and programs.
g) Duty to Seek Guidance: The President shall seek guidance from the Tribal Council as to future policy and conduct of tribal business and programs.

Section 7. Vice President.

a) Duty to Act: The Vice President shall have governing authority upon authorization of the President or, in the absence of the President, upon assent of a majority of a quorum of the Tribal Council. The Vice President may act as Presiding Chairperson in the absence or inability of the President to perform his/her duties.
b) Other Duties: The Vice President shall perform such other duties as may from time to time be required by the President or the Tribal Council.

Section 8. Secretary.

a) Duty to Act: The secretary shall have governing authority, upon authorization of the President or in the absence of the President, upon assent of the majority of a quorum of the Tribal Council. The secretary shall act as presiding chairperson in case of absence or incapacity of the President and Vice President.
b) Duty to Keep Records: The secretary shall be responsible for the preparation and preservation of an accurate record of all meetings of the Tribal Council and general membership.

Section 9. Treasurer.

a) Duty to Act: The treasurer shall have governing authority upon authorization of the President or, in the absence of the President, upon assent of a majority of a quorum of the Tribal Council – The treasurer may act as Presiding Chairperson in case of the absence or incapacity of the President, Vice President and Secretary.
b) Duty to keep Financial Records: The treasurer shall ensure that the financial records of the tribe are properly kept.
c) Duty to Protect Tribal Funds: The treasurer shall ensure that tribal funds are only expended upon proper authorization and that expenditures are consistent, with the established policies of the Tribal Council.
d) Duty to Provide Information: The treasurer shall be responsible for ensuring that request by tribal members for financial information concerning the public and private funds of the tribe is conveyed promptly and fully as is required by this constitution.
e) Duty to Ensure Audit: The treasurer shall ensure that the books and financial records of the tribe are audited at least once a year.
f) Duty to Report to Council and membership: The treasurer shall report to the tribal membership at the annual meeting of the tribe as to the financial condition of the tribe. The treasurer will ensure that monthly financial reports are submitted to the council.
g) Other Duties: The treasurer shall perform such other duties as may from time to time be required by the Tribal Council.

Article VIII – Open Meetings

Section 1. Open Meetings.

All meetings of the Tribal Council or its sub-committees or other working groups shall be open to members of the tribe. Non-members may attend with the permission of a majority of the members of the sub-committees or working group or by majority vote of a quorum of the Tribal Council. Tribal members attending any open, special, general, annual committee or council meetings shall have the opportunity to comment in a respectfully manner. Non-members will have no opportunity to comment unless approved by the majority of the members present, or 2/3 majority vote of the Tribal Council.

Section 2. Exceptions.

All meetings of the Tribal Council or its sub-committees or working groups wherein personnel matters or applications for tribal membership and applicable federal and state laws are considered and shall be closed to all tribal members. At the request of the sub-committee or other working group, a meeting may be closed if, upon a showing of good cause, the Tribal Council, by majority vote of a quorum, permits the closed session.

Article IX – Membership Meetings

Section 1. General Tribal Membership Meetings.

A tribal general tribal meeting shall be held annually as set by the majority of the membership. The membership can upon a request of one third (1/3) of the membership roll can call for a special meeting. The Tribal Council can by a majority of a quorum of the council call for a special meeting of its members.

Section 2. Annual Meeting.

At the annual meeting, elections shall be conducted pursuant to Article III, Section 2 of this constitution. A preliminary financial summary of the tribe's business and programs activities shall be presented to the tribal membership at the annual meeting and final audit report of the previous financial year activities will be made available. The President shall report on the state of the business and program activities of the tribe and shall summarize the future plans of the Tribal Council on behalf of the tribe.

Section 3. Quorum.

A quorum shall consist of at least fifty (50) members who are eligible to vote is required to hold an annual or special membership meeting. Quorums of four (4) Tribal Council members constitute a quorum to do business on behalf of the membership.

Section 4. Notices.

Notices of the regular quarterly meetings of the general tribal membership shall be posted at the Tribal Council office and sent to all voting members at least thirty days prior to the regular annual meeting and at least fourteen consecutive working days for a special meeting.

Section 5. Special membership meeting.

The Tribal Council may hold special membership meetings upon the call of the President or, in the absence or unwillingness of the President, by a majority vote of the Tribal Council. The President shall also call a special meeting of the general tribal membership upon written request thereof, signed by one third (1/3) members of the tribe.

Article X – Tribal Council meetings

Section 1. Regular Tribal Council Meetings.

The Tribal Council shall hold monthly meetings on behalf of the membership. A notice of the time and place of the regular Tribal Council meeting and a proposed agenda shall be posted in a prominent place in the tribal offices and public places at least ten working days before the start of the regular meeting. A similar notice shall be sent to all Tribal Council members prior to the regular meeting. Twenty four (24) hour notice is required for a special meeting and person-to-person notice for an emergency special meeting.

Section 2. Special Tribal Council Meetings.

The President from time to time may call for a special meeting on behalf of the membership for unforeseen a reason that is pending. Special meetings may be called by submission of a written request signed by a least four members of the Tribal Council. Such written request shall be directed to the President and shall state a date, time and place subject of the proposed special meeting.

Section 3. Emergency Special Meeting.

The notice provision of the section may be waived if immediate action by the Tribal Council is deemed necessary by the President, provided that at least as many members of the Tribal Council agree and a quorum is established and provided further that any action taken in emergency session is later ratified at the next regular meeting of the Tribal Council.

Article XI– Judiciary

Section 1. Authority to Establish.

The tribe may establish by tribal ordinance a judicial branch of government.

Section 2. Procedure to Establish.

The ordinance establishing the judicial branch of government must be approved at a regularly scheduled annual tribal membership meeting held pursuant to Article VIII, Section 1 of this constitution.

Section 3. Jurisdiction.

The judicial power of the courts of the tribe shall extend to all cases and matters in law and equity arising under the settlement act, this constitution, and the ordinances of the tribe, subject only to the limitations, restrictions or exceptions imposed by or under authority of the laws of the United States.

Article XII – Continuity of Action

Section 1. Ratification of Prior Tribal Action.

All actions, including, but not limited to ordinances, resolutions, enactments, staffing decisions or any other actions taken on behalf of the tribe by the Tribal Council adopted before the effective date of this constitution shall continue in effect to the extent that they are consistent with this constitution.

Section 2. Savings Clause.

Should any Article or section of this tribal constitution be found to be unconstitutional or in violation of any applicable federal law then the remainder of this constitution shall remain in full force and effect.

Article XIII – Sovereign immunity

Section 1. Immunity and Waiver.

The sovereign immunity of the tribe or any of its programs or business ventures, is hereby preserved except to the extent is may be specifically limited in the settlement act or in the general federal law which is applicable to federal Indian tribes.

The Tribal Council may, upon a vote of seven (7) members of the Tribal Council, provide an explicit written waiver of tribal sovereign immunity. The waiver must state the extent and purposes for which the waiver is granted. Waivers must be construed narrowly.

Section 2. Exhaustion of Tribal Remedies.

In seeking redress of grievances against the tribe, person subject to tribal jurisdiction shall exhaust all remedies available to them under this constitution and by-laws and the ordinances of the tribe before seeking redress of grievances against the tribe in the courts of the United States or, 'In the extent made specifically available in the settlement act, in the courts of the State of Alaska.

Section 3. Jurisdiction.

Unless specifically granted in the settlement act or as provided in federal law generally applicable to federal Indian tribes, the state or federal courts shall have no jurisdiction over the tribe, its tribal lands or its membership. The provisions of this section shall be liberally construed in favor of the tribe.

Article XIV – Changes in the Constitution

Changes in this Constitution and By-laws may be made if the changes are approved by the Secretary of the Interior and by a majority vote of the village members voting in an election called by the Secretary of the Interior at which at least 30 percent of the voting membership takes part.

Article XV – Repeal

The Articles and by-laws of the Native Village of Buckland dated December 30, 1950 are hereby repealed and superseded by this constitution.

Article XVI – Ratification

Section 1. Effective Date.

This constitution shall be effective upon approval of a majority of tribal members eligible to vote in membership meeting for a special tribal referendum called for the express purpose of ratifying this constitution.

Article XVII– Fiscal Year

The fiscal year of the tribe shall be calendar year.

Article XVIII – Signatures

Section 1. Signatures.

Wherever this constitution requires signatures to initiate some action, the number of signatures shall be increased accordingly for every one hundred (100) additional tribal members that are added to the tribal roll after the effective date of this constitution.

Section 2. Quorum Requirements.

Wherever this constitution requires the presence of tribal members to establish a quorum that number shall increase accordingly for every one hundred (100) additional tribal members that are added to the tribal roll after the effective date of this constitution.

BY-LAWS OF THE NATIVE VILLAGE OF BUCKLAND

RATIFIED April 20, 2002

Article I – Officers and Their Duties

Section 1. Village records.

The governing body president and ratified by the council shall choose one or more members who shall have the duty of keeping records of all actions and decisions of the village and of the governing body and of giving copies of the records to the council and representative of the Bureau of Indian Affairs serving the village.

Section 2. Village funds.

The governing body president and ratified by the council shall choose one or more members who shall have the duty of caring for the village funds and keeping records of all funds taken in and paid out and giving copies of the records to the council and representative of the Bureau of Indian Affairs.

Section 3. Officers and agents.

The governing body may choose as many officers and agents as it may need to carry out its duties and shall state the length of service and the duties of each officer or agent when he/she is chosen.

Article II – Adoption

This Constitution and By-laws shall be in effect when it is agreed to by majority vote of the Village members voting in an election call for the purpose by the Secretary of the Interior: Provided, That at least 30 percent of the voting membership take part. The persons entitled to vote are all the adult native residents in the Village of Buckland, Alaska as provided in Article 5, Section 1 of the Constitution.

Approval

This Constitution and By-laws is hereby approved by the Native Village of Buckland and submitted to the Assistant Secretary of Interior for acceptance or rejection having a common bond of living together in the Village of Buckland, Alaska in an election called and held under the instructions of the Secretary of the Interior.

All rules and regulations heretofore promulgated by the Interior Department or by the Bureau of Indian Affairs, so far as they may be incompatible with any of the provisions of the said Constitution and By-laws will be inapplicable to the Village of Buckland, State of Alaska, from and after the date of adoption of this Constitution and By-laws.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said Constitution and By-laws.

_____

Acting Secretary of the Interior
[SEAL]
Washington, D.C.

Certification of Adoption

Pursuant to an order, approved _____ by the Secretary of the Interior, the attached constitution and by-laws was submitted for ratification by the Tribal Members having a common bond of residence in the Native Village of Buckland, Alaska, State of Alaska, and was on April 20, 2002 duly ratified by a vote of 94 for, and 0 against, in an election in which over 30 percent of those entitled to vote cast their ballots, in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Acts of June 18, 1934 (48 Stat. 984) as amended by the Acts of June 15, 1935 (49 Stat. 378), and May 1, 1936 (49 Stat. 1250).

Willie P Thomas
Constitution & By-laws committee

Percy Ballot
IRA Council President

Percy Ballot Sr